

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

---

FRUTTA BOWLS FRANCHISING LLC,

Plaintiff,

v.

JUSTIN BITNER, DOUGLAS LANG,  
JACK E. KESSLER, III,  
GRAIN & BERRY CAFE, LLC,  
a Florida corporation, and  
ACAI GROUP LLC, a Florida corporation,

Defendants.

---

(Electronically Filed)

Civil Case No.: 3:18-CV-02446-FLW-DEA

**STIPULATION OF SETTLEMENT**  
**(as to Defendant Bitner ONLY)**

Certain parties to this action, having amicably adjusted same, hereby stipulate and agree as follows:

1. Plaintiff shall pay Defendant, Justin Bitner, the total sum of two hundred thousand dollars (\$200,000.00) in full settlement of any and all claims that the Defendant, Justin Bitner, may have against the Plaintiff and Plaintiff does hereby waive all rights to pursue any or all actions available to it against Defendant, Justin Bitner (that accrued as of the date set forth below). This Stipulation of Settlement resolves all claims by and among the Plaintiff and the Defendant, Justin Bitner, including without limitation any claims that Defendant Bitner maintains any ownership interest in any Frutta Bowl entity. In addition, Plaintiff agrees to indemnify Defendant, Justin Bitner, for any and all liabilities either known to the Plaintiff and or disclosed by Defendant, Justin Bitner to the Plaintiff as set forth in that certain Indemnification and Release, the terms of which are incorporated by this reference. To constitute a disclosed liability, Defendant, Justin Bitner must disclose any such liability prior to the date set forth below. Notwithstanding the aforesaid, the Plaintiff and the Defendant, Justin Bitner, shall also execute mutual general releases. This shall include any and all liability associated with any personal guarantee signed by Justin Bitner for the Plaintiff's corporate offices. Notwithstanding anything to the contrary, Defendant Justin Bitner agrees and acknowledges that any disclosure of the terms set forth herein or his prior affiliation with the Plaintiff shall be deemed a material breach of the terms of this settlement agreement entitling the Plaintiff to any remedies at law or in equity, including without limitation a right to the immediate termination of any payments that remain due and owing to the Defendant Justin Bitner hereunder. In addition, any use of the

Plaintiff's name by the Defendant Justin Bitner shall also be deemed a material breach of the terms set forth herein entitling the Plaintiff to the remedies set forth above.

2. The two hundred thousand dollars (\$200,000.00) set forth above shall be paid in installments with an initial payment of seventy-five thousand dollars (\$75,000.00) paid upon execution of this Stipulation of Settlement. The balance of one hundred twenty-five thousand dollars (\$125,000.00) shall be paid without interest on the fifteenth day of each month beginning January 15, 2019 in the amount of five thousand two hundred eight and 33/100 dollars (\$5,208.33) and continuing thereafter on the 15<sup>th</sup> day of each month. The final monthly payment shall be due and payable on or before December 15, 2020.

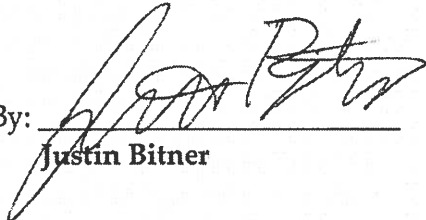
3. In the event that any payment due hereunder is not made by the due date, then Plaintiffs shall be deemed in default of this stipulation. Upon default, the entire remaining balance shall be accelerated and shall be immediately due and payable. Additionally, Defendant, Justin Bitner shall be entitled to have judgment entered against Plaintiff.

4. In the event of default, Plaintiff shall be liable to Defendant for reasonable attorney's fees incurred in moving to enforce this Stipulation of Settlement and in the collection of same. Reasonable attorney's fees shall be determined without reference to the sums due.

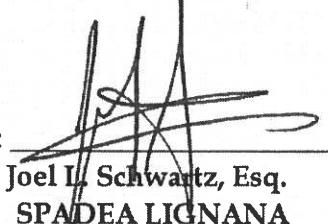
5. In the event of default as aforesaid, Defendant, Justin Bitner may file a motion in this cause to enforce the terms of the settlement, as well as the terms of the default and attorney's fees provisions set forth above.

6. Upon the filing of this stipulation, this matter shall be dismissed as to Defendant, Justin Bitner, provided, however, that either Plaintiff or Defendant Bitner may move in this cause to enforce the terms of this Stipulation of Settlement as aforesaid.

Justin Bitner; Pro-se


By:   
Justin Bitner

SPADEA LIGNANA  
Attorneys for Plaintiff

By:   
Joel L. Schwartz, Esq.  
SPADEA LIGNANA  
The Philadelphia Building  
1315 Walnut Street, Suite 1532  
Philadelphia, PA 19107  
Phone: 215.525.1165  
Facsimile: 800.797.0422  
Attorneys for Plaintiff Frutta Bowl  
Franchising, LLC

SO ORDERED:

11/1/18

  
Freda L. Watson, U.S.D.J.